

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JUNE 20, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-20524 - APPLICANT/OWNER: K B HOME NEVADA**

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**\*\* CONDITIONS \*\***

The Planning Commission (4-3/ds, bg, rt vote) and staff recommend DENIAL.

**Planning and Development**

1. All development shall conform to the Conditions of Approval for Tentative Map (TMP-20518) and the Cliff's Edge Master Development Plan and Design Guidelines, except as amended herein.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This application is for a Variance to allow a living area or porch to be set back five feet from a private drive or parking where 10 feet is the minimum setback required. Since this proposal requires a Variance from the setbacks established in the Cliff's Edge Master Development Plan and Design Guidelines, and because that Variance is needed solely because of a self-imposed hardship, staff finds that the proposed Tentative Map fails to comply with the intent of the PD zoning within this Master Plan.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
02/06/02	The City Council approved an Annexation (A-0026-01) of 95 acres in the northern portion of the Cliff's Edge Master Plan area, south of Grand Teton Drive. The Planning Commission recommended approval on May 10, 2001. The effective date of this annexation was February 15, 2002. Staff had recommended approval of this application.
02/06/02	The City Council approved an Annexation (A-0028-01) of 10 acres in the northern portion of the Master Plan area, south of Grand Teton Drive. The Planning Commission recommended approval on May 10, 2001. The effective date of this annexation was February 15, 2002. Staff had recommended approval of this application.
06/19/02	The City Council approved an Annexation (A-0027-01) of five acres in the northern portion of the Master Plan area, south of Grand Teton Drive. The Planning Commission recommended approval on May 10, 2001. The effective date of this annexation was June 28, 2002. Staff had recommended approval of this application.
01/08/03	The City Council approved an Annexation (A-0030-02) of five acres in the northern portion of the Master Plan area, south of Grand Teton Drive. The Planning Commission recommended approval on October 10, 2002. The effective date of this annexation was January 17, 2003. Staff had recommended approval of this application.
02/05/03	The City Council approved an Annexation (A-0035-02) of over 1,056 acres in the area bounded by Hualapai Way to the east, Grand Teton Drive to the north, Puli Road to the west and Centennial Parkway and the Beltway alignment to the south. The Planning Commission recommended approval on September 26, 2002. The effective date of this annexation was February 14, 2003. Staff had recommended approval of this application.

04/16/03	The City Council approved a request for a Rezoning (ZON-1520) from U (Undeveloped) Zone [PCD (Planned Community Development) General Plan Designation] to PD (Planned Development) Zone on approximately 317.5 acres covering 68 separate parcels in the Cliff's Edge area, and approved the related Cliff's Edge Master Development Plan to regulate development and the provision of infrastructure in the area. The Planning Commission and staff recommended approval on February 13, 2003.
07/16/03	The City Council approved a request for a Rezoning (ZON-2184) from U (Undeveloped) Zone [PCD (Planned Community Development) General Plan Designation] to PD (Planned Development) Zone on approximately 704 acres covering 21 separate parcels in the Cliff's Edge area, and approved amendments to the approved Cliff's Edge Master Development Plan. The Planning Commission and staff recommended approval on June 12, 2003.
12/04/03	A Minor Modification (MOD-3189) to the Cliff's Edge Master Development Plan and Design Guidelines was administratively approved by the Planning and Development Department, subject to a number of conditions.
12/17/03	The City Council approved an Annexation (ANX-3087) of 27.5 acres of land within the Cliff's Edge Master Development Plan area. The Planning Commission and staff recommended approval on October 23, 2003. The effective date of this annexation was December 26, 2003.
02/18/04	The City Council approved a request for a Rezoning (ZON-3241) from U (Undeveloped) Zone [PCD (Planned Community Development) General Plan Designation] to PD (Planned Development) Zone on approximately 90 acres covering 20 separate parcels in the Cliff's Edge area. The Planning Commission recommended approval on January 8, 2004. Staff recommended approval of this application.
02/18/04	The City Council approved a Development Agreement between the City of Las Vegas and Cliff's Edge, Limited Liability Company, for the Cliff's Edge Master Planned Community. The Planning Commission recommended approval on June 8, 2004. Staff recommended approval of this application.
02/26/04	The Planning Commission recommended approval of an Annexation (ANX-3693) of approximately 2.14 acres of land within the Cliff's Edge Master Development Plan area. The item will be forwarded to the City Council for consideration at its March 17, 2004 meeting. Its effective date, if approved, would be April 30, 2004.
05/05/04	The City Council approved a Major Modification (MOD-3955) to the Cliff's Edge Master Development Plan to change land use designations from Village Commercial to Medium Low Density Residential and Medium Residential; from Medium Residential to Residential Small Lot; and from Medium Low Density Residential to Public Facilities; to modify Section 6.2.3 regarding retaining walls; and to modify Table 1 (Section 2.2) to reflect changes to the land use categories on 40 total acres within the Cliff's Edge Master Development Plan area.

11/16/05	The City Council approved a Major Modification (MOD-9174) to the Cliff's Edge Master Development Plan And Design Guidelines to establish standards for rear loaded residential small lot housing products and to add section 3.2.5b to the design guidelines on 1,156 acres including the subject site. The Planning Commission and staff recommended approval.
06/24/06	The Planning Commission approved a Tentative Map (TMP-4465) for a 286-lot subdivision on 40.84 acres on the subject site. Staff recommended approval. The current application is a major modification of this action.
04/26/07	The Planning Commission held in abeyance this application and a related application for a Tentative Map (TMP-20518) for renotification.
05/10/07	<a href="#">The Planning Commission recommended denial of companion item TMP-20518 concurrently with this application.</a>  <a href="#">The Planning Commission voted 4-3/ds, bg, rt to recommend DENIAL (PC Agenda Item #14/rl).</a>

<b><i>Pre-Application Meeting</i></b>	
03/02/07	A pre-application meeting was held to discuss the specific issues regarding the front yard setbacks for the small lot development at a density of eight units per acre, as well as the Tentative Map requirements in the Cliff's Edge Master Plan.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required for this request, nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	40.84

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped	PCD (Planned Community Development)	PD (Planned Development)
North	Undeveloped	PCD (Planned Community Development)	PD (Planned Development)
South	Undeveloped	PCD (Planned Community Development)	PD (Planned Development)
East	Undeveloped	PCD (Planned Community Development)	PD (Planned Development)
West	Undeveloped	Unincorporated Clark County	Unincorporated Clark County

<i><b>Special Districts/Zones</b></i>	<i><b>Yes</b></i>	<i><b>No</b></i>	<i><b>Compliance</b></i>
<b>Special Area Plan</b>			
Cliff's Edge (Providence)	X		N*
<i><b>Special Districts/Zones</b></i>	<i><b>Yes</b></i>	<i><b>No</b></i>	<i><b>Compliance</b></i>
<b>Special Purpose and Overlay Districts</b>			
PD Planned Development District	X		N*
<b>Trails</b>		X	NA
<b>Rural Preservation Overlay District</b>		X	NA
<b>Development Impact Notification Assessment</b>		X	NA
<b>Project of Regional Significance</b>		X	NA

**\* The failure to meet the minimum setback requirements of the PD (Planned Development District) in Cliff's Edge is the subject of this Variance.**

- **Cliff's Edge Master Plan**

Future development within the Cliff's Edge master plan area is controlled by the Cliff's Edge Master Development Plan and the Cliff's Edge Design Guidelines. The Master Development Plan was required for the approval of PD (Planned Development) zoning, which was applied to the area concurrently with the approval of the Master Development Plan and the Design Guidelines.

- **PD Planned Development District**

Pursuant to Title 19.06.050, the development standards within a PD (Planned Development) zoning district are established by the Master Development Plan. The development standards for the Cliff's Edge area are established through the approved Cliff's Edge Master Development Plan, and with the approval of proposed modifications to the area's land use categories.

## **DEVELOPMENT STANDARDS**

<i><b>Standard</b></i>	<i><b>Approved TMP-4465</b></i>	<i><b>Proposed TMP- 20518 18' driveway</b></i>	<i><b>Proposed TMP- 20518 24' private drives</b></i>
Total Number of Lots	286	324	
Common Lots	7	14	
Open Space	35,357 SF	77,321	
Parking Spaces	572	648	
Typical Lot Width	44 Feet	44 Feet	36 Feet

***Pursuant to the Cliff's Edge Master Development Plan and Design Guidelines:***

<b><i>Standard</i></b>	<b>Required</b>	<b>Provided</b>	<b>Compliance</b>
Min. Setbacks			
• Living Area or Porch from private Street or Parking	10 Feet	5 Feet	N*
• Non-Balcony to Non-Balcony	15 Feet	15 Feet	Y
• Garage	Less than 5 Feet or More than 18 Feet	5 Feet	Y

\* Subject of this Variance

\*\* Pursuant to Cliff's Edge Standards, up to 50% of the rear of the house may be setback 10 feet while the remainder must be setback 15 feet.

	<b>Permitted Density</b>	<b>Units Allowed</b>
<b>Approved TMP-4465</b>	7.00 du/a	286*
<b>Proposed TMP-20518</b>	7.93 du/a	324*

\* Includes all area encompassed by TMP-4465, including Windimere II.

## **ANALYSIS**

This application is for a Variance to allow a five-foot front living area or porch setback where 10-feet is the minimum setback required. The applicant cites the need for this request as there are no development standards for this product type at the proposed density. The applicant, citing changing market conditions, wishes to develop a product that resembles the Residential Small Lot (Mini-lot Cluster) design that is permitted at up to 15 dwelling units per acre. However, there is no equivalent development standard to this type of product at the eight units per acre density. Therefore, the applicant is requesting this Variance.

Pursuant to Title 19.06.050, the development standards within a PD (Planned Development) zoning district are established by the Master Development Plan. The development standards for the Cliff's Edge area are established through the approved Cliff's Edge Master Development Plan, and with the approval of proposed modifications to the area's land use categories. However, since this proposal requires a Variance from the setbacks established in the Cliff's Edge Master Development Plan and Design Guidelines, and because that Variance is needed solely because of a self-imposed hardship, staff finds that the proposed Tentative Map fails to comply with the intent of the PD zoning within this Master Plan.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a solely self-imposed hardship requiring a reduced setback. Alternatively constructing homes as approved by the previous Tentative Map (TMP-4465) would allow conformance to the Title 19 requirements and the Cliff’s Edge Master Development Plan and Design Guidelines. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 13

**SENATE DISTRICT** 9

**NOTICES MAILED** 69 by City Clerk

**APPROVALS** 0

**PROTESTS** 0